

77-1-1. Short title.

This act shall be known and may be cited as the "Utah Code of Criminal Procedure."

Enacted by Chapter 15, 1980 General Session

77-1-2. Criminal procedure prescribed.

The procedure in criminal cases shall be as prescribed in this title, the Rules of Criminal Procedure, and such further rules as may be adopted by the Supreme Court of Utah.

Enacted by Chapter 15, 1980 General Session

77-1-3. Definitions.

For the purpose of this act:

(1) "Criminal action" means the proceedings by which a person is charged, accused, and brought to trial for a public offense.

(2) "Indictment" means an accusation in writing presented by a grand jury to the district court charging a person with a public offense.

(3) "Information" means an accusation, in writing, charging a person with a public offense which is presented, signed, and filed in the office of the clerk where the prosecution is commenced pursuant to Section 77-2-1.1.

(4) "Magistrate" means a justice or judge of a court of record or not of record or a commissioner of such a court appointed in accordance with Section 78A-5-107, except that the authority of a court commissioner to act as a magistrate shall be limited by rule of the judicial council. The judicial council rules shall not exceed constitutional limitations upon the delegation of judicial authority.

Amended by Chapter 3, 2008 General Session

77-1-4. Conviction to precede punishment.

No person shall be punished for a public offense until convicted in a court having jurisdiction.

Enacted by Chapter 15, 1980 General Session

77-1-5. Prosecuting party.

A criminal action for any violation of a state statute shall be prosecuted in the name of the state of Utah. A criminal action for violation of any county or municipal ordinance shall be prosecuted in the name of the governmental entity involved.

Enacted by Chapter 15, 1980 General Session

77-1-6. Rights of defendant.

(1) In criminal prosecutions the defendant is entitled:

- (a) To appear in person and defend in person or by counsel;
 - (b) To receive a copy of the accusation filed against him;
 - (c) To testify in his own behalf;
 - (d) To be confronted by the witnesses against him;
 - (e) To have compulsory process to insure the attendance of witnesses in his behalf;
 - (f) To a speedy public trial by an impartial jury of the county or district where the offense is alleged to have been committed;
 - (g) To the right of appeal in all cases; and
 - (h) To be admitted to bail in accordance with provisions of law, or be entitled to a trial within 30 days after arraignment if unable to post bail and if the business of the court permits.
- (2) In addition:
- (a) No person shall be put twice in jeopardy for the same offense;
 - (b) No accused person shall, before final judgment, be compelled to advance money or fees to secure rights guaranteed by the Constitution or the laws of Utah, or to pay the costs of those rights when received;
 - (c) No person shall be compelled to give evidence against himself;
 - (d) A wife shall not be compelled to testify against her husband nor a husband against his wife; and
 - (e) No person shall be convicted unless by verdict of a jury, or upon a plea of guilty or no contest, or upon a judgment of a court when trial by jury has been waived or, in case of an infraction, upon a judgment by a magistrate.

Enacted by Chapter 15, 1980 General Session

77-1-7. Dismissal without trial -- Custody or discharge of defendant.

- (1) (a) Further prosecution for an offense is not barred if the court dismisses an information or indictment based on the ground:
- (i) there was unreasonable delay;
 - (ii) the court is without jurisdiction;
 - (iii) the offense was not properly alleged in the information or indictment; or
 - (iv) there was a defect in the impaneling or the proceedings relating to the grand jury.
- (b) The court may make orders regarding custody of the defendant pending the filing of new charges as the interest of justice may require. Otherwise, the defendant shall be discharged and bail exonerated.
- (2) An order of dismissal based upon unconstitutional delay in bringing the defendant to trial or upon the statute of limitations is a bar to any other prosecution for the offense charged.

Enacted by Chapter 7, 1990 General Session